

HOUSE No. 4143

Sections 31 and 40 contained in the engrossed Bill making appropriations for the fiscal year 2010 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4129), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment F of House, No. 4139). June 30, 2009.



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND NINE.

AN ACT PROVIDING ANALYSIS OF TAX CREDIT PROGRAMS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to include and analyze forthwith tax credit programs, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 62C of the General Laws is hereby amended by striking out section 1, as
2 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

3 Section 1. As used in the chapter, the following words shall, unless the context requires otherwise,
4 have the following meanings:-

5 “Administering agency head”, the agency head responsible for administering the applicable state
6 tax credit program.

7 “Average salary”, the total Massachusetts gross salary of a group of Massachusetts employees
8 divided by the number of Massachusetts employees in the group.

9 “Building contractor”, any general contractor, subcontractor or repairman who is engaged in the
10 business of constructing or improving real property.

11 “Code”, the Internal Revenue Code of the United States in effect on July 1, 1983.

12 “Commissioner”, the commissioner of revenue.

13 “Full-time employee”, a person who is employed for consideration for at least 35 hours per week
14 and whose salary is subject to withholding as provided in chapter 62B.

15 “Materialman”, a person primarily engaged in the retail sale of building material, tools and
16 equipment to building contractors for the improvement of real property and authorized by law to file a
17 mechanics lien upon real property for improvements related to the property. For the purposes of this
18 definition, “primarily engaged” shall mean sales of 50 per cent or more of total sales to building
19 contractors.

20 “Part-time employee”, a person who is employed for consideration for less than 35 hours a week
21 and whose salary is subject to withholding as provided in chapter 62B.

22 “Promoter”, a person who, either directly or indirectly, rents, leases or grants a license to use space
23 to any person for the display for sale or for the sale of tangible personal property subject to tax under
24 chapter 64H, at more than 3 shows during the calendar year, or who operates more than 3 shows during
25 the calendar year. For purposes of determining whether 3 shows have been held, the conduct of an
26 activity described in the definition of “Show” on 1 day alone or on a series of up to 7 consecutive days
27 shall be deemed to constitute a single show.

28 “Show”, a flea market, craft show, antique show, coin show, stamp show, comic book show fair
29 and any similar show, whether held regularly or of a temporary nature at which more than 1 vendor
30 displays for sale or sells tangible personal property subject to tax.

31 “Tax”, any tax, excise, interest, penalty, or addition to tax imposed by this chapter or the statutes
32 referred to in section 2.

33 “Tax credit program”, one of the following credits against the state income tax to stimulate
34 economic development and other policy goals: the brownfields tax credit established by subsection (j) of
35 section 6 of chapter 62 and section 38Q of chapter 63; the dairy farmer tax credit established by
36 subsection (o) of section 6 of chapter 62 and section 38Z of chapter 63; the FDA user fees credit

established by subsection (n) of section 6 of chapter 62 and section 31M of chapter 63; the film tax credit established by subsection (l) of section 6 of chapter 62 and subsection (b) of section 38X of chapter 63; the historic rehabilitation tax credit established by section 6J of chapter 62 and section 38R of chapter 63; the life sciences investment tax credit established by subsection (m) of section 6 of chapter 62 and section 38U of chapter 63; the low-income housing tax credit established by section 6I of chapter 62 and section 31H of chapter 63; the medical device tax credit established by section 6½ of chapter 62 and section 31L of chapter 63; and the refundable research credit established by subsection (j) of section 38M of chapter 63.

SECTION 2. Said chapter 62C is hereby further amended by adding the following section:-

Section 88. (a) (1) Each administering agency head shall annually submit a report, no later than March 1, to the commissioner on each tax credit program authorized for the previous calendar year, hereinafter known as the report, which shall be a public record made available on a government internet website for public disclosure.

(2) The report shall contain the following information:

(i) the number of taxpayers authorized by the administering agency head to receive a tax credit;

(ii) the type and amount of the tax credit awarded to each industry;

(iii) the date that the tax credit was awarded; and

(iv) an aggregate summary of the employment data, by industry, provided by each taxpayer pursuant to subsection b.

(3) The report shall include, for the previous calendar year, an analysis of the benefits received by the commonwealth relevant to the specific goals of the tax credit program, the impact of the tax credit program on preserving, promoting and growing employment in the relevant industry in the commonwealth and any other benefits received as a result of the tax credit program.

(4) The report shall include the following information relevant to the specific tax credit programs:

(i) for the brownfields tax credit, an analysis of the impact of the brownfields tax credit program on the cleanup and development of contaminated properties;

(ii) for the dairy farmer tax credit, an analysis of the impact of the dairy farmer tax credit on preserving dairy farms and dairy farm employment including, but not limited to, an analysis of the dairy product output and the number and size in acreage of dairy farms receiving a dairy farm credit;

(iii) for the U.S.F.D.A. user fees credit, life sciences investment tax credit and the refundable research credit, an analysis of the impact of the program on preserving and increasing economic development and infrastructure for the calendar year;

(iv) for the film tax credit, an analysis of the impact of the film tax credit program on preserving or increasing film industry jobs and other benefits of the program;

(v) for the historic rehabilitation tax credit, an analysis of the impact of the program on preserving historic structures and other benefits of the program including, but not limited to, the employment created for the calendar year;

74 (vi) for the low-income housing tax credit, an analysis of the impact of the program on preserving or
75 increasing low-income housing and other benefits of the program including, but not limited to, the
76 number of low-income housing units placed in service for the calendar year; and

77 (vii) for the medical device tax credit, an analysis of the impact of the medical device tax credit
78 program on preserving or increasing medical device industry jobs and other benefits of the program.

79 (b) Each taxpayer receiving a tax credit from a tax credit program shall annually report, no later
80 than February 15, a statement of jobs to the administering agency head which shall contain the following
81 information:

82 (i) the number of full-time employees working for the taxpayer on the date the administering
83 agency head authorized the tax credit, the number of full-time employees working for the taxpayer on
84 December 31 of each calendar year that the tax credit is applied and the average salary of such
85 employees;

86 (ii) the number of part-time employees working less than 35 hours but more than 20 hours per week
87 for the taxpayer on the date the administering agency head authorized the tax credit, the number of such
88 employees working for the taxpayer on December 31 of each calendar year that the tax credit is applied
89 and the average salary of such employees;

90 (iii) the number of part-time employees working 20 hours per week or less for the taxpayer on the date
91 the administering agency head authorized the tax credit, the number of such employees working for the
92 taxpayer on December 31 of each calendar year that the tax credit is applied and the average salary of
93 such employees; and

94 (iv) any other information required by the administering agency head to assist the agency head in
95 assessing the economic and employment impact of the tax credit program on the commonwealth and in
96 the relevant industry and otherwise in meeting the goals of the relevant tax credit program.

97 SECTION 3. This act shall take effect as of July 1, 2009.

98